

OFFICE OF POLICY AND LEGAL ANALYSIS
MEMORANDUM

TO: IFS Committee Members

FROM: Colleen McCarthy Reid, Legislative Analyst

DATE: January 3, 2012

RE: ACA Requirements: Standards for Reinsurance, Risk Corridors and Risk Adjustment

This responds to a request made at the committee's December 13th meeting for more information about the ACA's requirements related to standards for reinsurance, risk corridors and risk adjustment.

ACA Provisions

The ACA includes provisions requiring the establishment of reinsurance mechanisms, risk corridors and risk adjustment mechanisms to mitigate the impact of adverse selection on the individual and small group health insurance markets and to stabilize premiums as insurance reforms and health benefit exchanges take effect in 2014. A brief summary of each program is included below.

Reinsurance. The reinsurance mechanism is intended to be transitional for the first 3 years after the ACA's insurance reforms are fully implemented—2014 to 2016. Reinsurance is intended to provide funding to health plans that enroll high-cost individuals both inside and outside an exchange. A state must oversee the reinsurance program if it operates an exchange. If the federal government administers the exchange for a state, the state may opt to run the reinsurance mechanism.

Risk Corridors. The risk corridor program is intended to limit losses (and gains) of health insurance issuers to stabilize rate setting in the individual and small group markets. The program is intended to be administered by the federal government and, like the reinsurance mechanism, intended to be operated on a temporary basis from 2014 through 2016.

Risk Adjustment. The risk adjustment program is intended to be operated on an ongoing basis to provide health insurance issuers that attract high-risk enrollees. With risk adjustment, funds are transferred from health insurance issuers with the lowest-risk enrollees to those issuers with high-risk enrollees. Risk adjustment applies to both individual and small group health plans. A state must oversee the risk adjustment program if it operates an exchange. If the federal government administers the exchange for a state, the state may opt to run the risk adjustment program.

Proposed Federal Rule

The proposed federal rule, which was issued on July 15, 2011, is attached. The comment period for the rule closed on September 28, 2011. The final rule is expected in the first quarter of 2012. The proposed rule establishes standards for the establishment and operation of a transitional reinsurance program and temporary risk corridors and for a permanent risk adjustment program.

State Law

Public Law 2011, chapter 364 directs the Superintendent of Insurance to establish a transitional reinsurance program and risk adjustment program as required by the federal ACA.

24-A MRSA § 4320-E states:

§ 4320-E. Reinsurance, risk corridors and risk adjustment

1. Transitional reinsurance program. The superintendent shall establish a transitional reinsurance program for calendar years 2014, 2015 and 2016 as required by Section 1341 of the federal Affordable Care Act.

2. Risk corridors. A carrier shall make any payments required under the risk corridors program established by the Secretary of the United States Department of Health and Human Services for calendar years 2014, 2015 and 2016 as required by Section 1342 of the federal Affordable Care Act.

3. Risk adjustment. The superintendent shall establish a risk adjustment program as required by Section 1343 of the federal Affordable Care Act.